

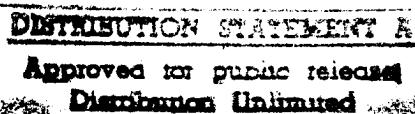
## CONGRESS AND THE AIR FORCE

A Research Project

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The Directorate of Research

Air Command and Staff College



In Partial Fulfillment of the Graduation Requirements of ACSC

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### *Abstract*

The involvement of the Congress in military affairs has always had a significant impact on the Air Force; after all, it was an act of Congress that created the Air Force as a separate service. A positive relationship between these two organizations helps shape the current and future capabilities necessary to defend our nation. However, in an era when all the Services are competing for shares of declining defense budgets, it has become even more important for the Air Force to cultivate a positive relationship with Congress. The problem is that many Air Force members do not have an in-depth understanding of how to interact with Congress in order to build and maintain that relationship to the benefit of the Air Force. Moreover, they don't know where to go to find out that information.

The “Congress and the Air Force” Internet web page serves as a “one-stop shop” where Air Force personnel can find vital guidance and direction on how to interact with Congress. It also provides comprehensive background information to help Air Force members better understand the Congress-Air Force relationship. The web page discusses four major subject areas: (1) the historical congressional-military relationship, (2) the basic legislative process, (3) the Air Force’s involvement with Congress, and (4) specific “how to” guidance for interacting with Congress.

The need for a “one-stop” guide is clear. The literature on this topic is not readily accessible by the Air Force member out in the field who has a need to know. This research project incorporates statutory, regulatory, and background information from a

multitude of sources: books, periodicals, documents, government publications and reports, personal interviews, and multimedia sources. A detailed listing of the sources the team used can be found in the accompanying bibliography. The team also used internal directives and working papers not normally distributed outside of the Air Force Legislative Liaison Office (SAF/LL) to produce a concisely tailored product that is of tremendous value to our intended customer. The Internet web page presents this information via a medium which is universally accessible, easy to use, and easy to update.

## **Chapter 1**

### **Introduction**

*The upcoming Congressional hearings are critical to our service. They allow us to justify our programs and budget. . . . Ultimately, our readiness, modernization, and quality of life measures hinge upon our success in convincing Congress of the value of our programs.*

—The Honorable Sheila E. Widnall  
Remarks to Air Force Posture Team, 30 November 1995

### **Problem Definition**

Many Air Force personnel, both inside and outside the Pentagon, do not have an in-depth understanding of how the Air Force interacts with Congress and how they can positively influence that relationship for the benefit of the Air Force. The “Congress and the Air Force” Internet web page addresses this gap in airpower knowledge and provides a “one-stop” information guide for all Air Force members.

The Congress is intimately involved with our military at many levels—from regulating the organization of the Department of Defense (DOD), to approving and funding military programs, to exercising oversight of military affairs. Therefore, the current and future strength of the Air Force is, to a large extent, dependent on how well-informed and supportive Congress is of Air Force requirements, programs, and operations. When Air Force interaction with Congress is not open and positive, the end

result is often a Congress that is not supportive of Air Force programs. The Air Force has a legislative liaison office (SAF/LL) that interfaces with Congress on a day-to-day basis, however, much of the interaction actually takes place outside the Pentagon. Air Force members at all levels can find themselves directly involved in the process of providing input to Congress, whether through base visits, preparation of testimony, or responses to congressional investigations and inquiries. Therefore, Air Force members need to know how the Congress-Air Force relationship works. As Retired Major General Perry Smith wrote in *Assignment Pentagon*, “The learning experience is invaluable and you will be much more effective in the field or in the fleet if you know how Congress works; are familiar with key committees, congressmen and staffers; and understand the interaction between the Department of Defense and Congress.”

## **Research Objective**

The objective of this research project is two-fold. First, it provides Air Force personnel with the necessary information to better understand Congress’s role in military affairs and its impact on the Air Force. Second, it provides everyone in the Air Force with the tools to successfully interact with Congress when necessary. The overarching consideration in accomplishing these objectives is to “package” the information and tools so that they are readily available to Air Force personnel at all levels.

## **Chapter 2**

### **Overview**

The “Congress and the Air Force” Internet web page contains four modules which provide Air Force members with information on Congress’s role in military affairs and its relationship with the Air Force, and guidance on what military personnel should do when tasked to interact with Congress. The four modules are organized as follows: (1) Congressional-Military Relations: An Historical Perspective, (2) Basic Legislative Process, (3) Air Force Involvement in the Legislative Process, and (4) A “How-To” Guide for Air Force Personnel. A written reconstruction of each of these modules is included at Appendix A. The intended purpose and content of each of the modules are briefly summarized below.

#### **Congressional-Military Relations: An Historical Perspective**

This module traces the historical interaction between Congress and the U.S. military since 1787, and highlights the congressional events that have most significantly shaped it. The predominant theme of that relationship has been the constantly shifting level of congressional involvement in military affairs. To illustrate that dynamic, this module identifies the constitutionally granted powers given to the Legislative and Executive Branches regarding military affairs, and then takes a chronological look at the following

four areas of congressional-military interaction: how Congress has used its power to regulate the organizational structure of the armed forces, how Congress has wielded the power of the purse in both the operation and shaping of military affairs, how Congress and the President have struggled over the issue of who has the authority to commit military forces, and how Congress has used the power of investigation to influence military affairs.

## **Basic Legislative Process**

This module describes the basic U.S. legislative process as it exists today. The module outlines the evolution of a bill into law and discusses the various organizations and influences that affect the legislative process. These influences include congressional committees, congressional staffers, lobbyists, and the checks and balances system provided for in the Constitution.

## **Air Force Involvement in the Legislative Process**

This module explains how, when, and why the Air Force is required to be involved in the legislative process. The module begins with a description of the Air Force Legislative Liaison Office (SAF/LL), which is the Air Force's primary interface with Congress. It goes on to describe SAF/LL's role and functions, and provides an overview of the legal and regulatory environment in which it operates. Next, the module discusses the process in the context of military-related legislation. Finally, there is a description of the products SAF/LL generates to create a flow of information from the Congress to senior Air Force leaders, the Air Staff, and major commands.

## **A “How-To” Guide for Air Force Personnel**

This module is the heart of the “Congress and the Air Force” web page. It provides guidance and direction on how to handle a wide variety of activities involving interaction with Congress. The areas addressed include base visits, congressional inquiries, hearings and testimony, investigations, and reports to Congress. This module includes general guidelines and philosophy, as well as specific references to Air Force directives and instructions.

## **Chapter 3**

### **Approach**

#### **Research Product**

The research team considered several different methods of providing the research product to Air Force members: a published research paper, a computer ToolBook, a CD-ROM, or an Internet web page. In order to choose the appropriate research product medium, the team evaluated each medium against the criteria of accessibility, cost, user friendliness, and currency.

Accessibility means that the product must be readily available to all Air Force personnel in the field. Cost means that the product can be distributed to Air Force units at minimal expense to the Air Force. User friendliness means that the product must be easy to use and have an interesting presentation style. Currency means that the product can be easily updated to reflect the most current information available.

The research team's analysis concluded that an Internet web page best satisfied all four criteria. The Internet is now, or will be in the immediate future, universally available to Air Force members at the base level. There is no usage cost associated with using the military domain of the Internet to distribute this material, and creation costs for the project's sponsor organization are minimal. For the purposes of this research project, the

team made the assumption that Air Force members have a working knowledge of the Internet. Thus, every Air Force member has the skills necessary to access and use this product. After initial fielding, the web page will require minimal effort to update in order to maintain its currency and vitality. Internet web page editing is straight forward and the changes can be transmitted universally in an instant. Another advantage of selecting the Internet medium is that it provides the opportunity to build links to other Internet web pages (such as Congress's Thomas page or the AF regulations on the Internet). By building these links into this web page, the research team has ensured that the product accesses the most up-to-date information at external sources, where the currency is maintained by the experts at those sites. Those external links are "seamless" to the user. In addition, the Internet web page gives the reader an interactive capability by enabling the use of electronic mail to contact sources referenced in the web page. The "Congress and the Air Force" web page can currently be accessed through the Air University Internet Home Page.

## **Research Methodology**

The research team initially defined the problem, namely, a general lack of in-depth understanding among members of the Air Force on how to successfully interact with Congress. This section describes how the team developed an accessible, inexpensive, and user-friendly product to solve that problem.

The team identified four major subject areas which provide the Air Force audience with a comprehensive look at Congress-Air Force interaction: an historical examination of congressional involvement in military affairs, a description of the basic legislative

process, a discussion of the Air Force's role in the legislative process, and finally, a "how to" guide. These subject areas shaped the organizational framework of both the research process and the final product.

The research team organized around the four major subject areas, or modules. The team developed an organizational framework, or "roadmap," which defined how the modules are linked to each other and how these modules are linked to external sources. The roadmap enabled the team to focus its research and establish project milestones. In addition, the roadmap served as the architecture for Internet web page construction. This roadmap is at Appendix B.

Each module was researched and developed under the direction of a module manager. The module manager was responsible for establishing research objectives and coordinating and analyzing the research data for his/her module. The research for each module included an extensive literature review of the following sources: books, periodicals, previously published research, government publications and reports, personal interviews, and Internet information. Each team member became an expert on a particular research medium and then conducted the research in that medium for all four modules. This specialization ensured that there was breadth, depth, and consistency in the research for each subject area. The module manager then developed a written paper from the research inputs which comprehensively discussed that module (Appendix A). The editing team then took the four written module products and translated them into text suitable for Internet web page development. The research team's designated technology experts took the edited text and converted it into web page language and graphic interfaces. The technology team then established internal links and external links to other

web pages, and refined and polished the web page for on-line use and world-wide dissemination.

## **Appendix A**

### **Congress and the Air Force**

#### **Reconstruction of Research**

This reconstruction of research appendix encompasses four chapters covering the following major subject areas: (1) the historical congressional-military relationship, (2) the basic legislative process, (3) the Air Force's involvement with Congress, and (4) specific "how to" guidance for Air Force members who interact with Congress. This research is the basis for the text of the "Congress and the Air Force" Internet web page.

## **Chapter 1—Congressional-Military Relations: An Historical Perspective**

In order to fully understand present-day relations between Congress and the Air Force, it is necessary to understand the foundations of that relationship. The following chapter traces the historical interaction between Congress and the U.S. military, and highlights the events that have most significantly shaped it. The predominant theme of that relationship since 1787 has been the constantly shifting level of congressional involvement in military affairs. To illustrate that dynamic, this chapter identifies the constitutionally granted powers given to each Branch regarding military affairs, and then takes a chronological look at (1) how Congress has used its power to regulate the organizational structure of the armed forces, (2) how Congress has wielded the power of the purse in military affairs, (3) how Congress and the President have struggled over the issue of who has the authority to commit military forces, and (4) how Congress has used the power of investigation to influence military affairs.

### **Constitution of 1787**

The Constitution provides that the executive power of the United States shall be vested in a single person, the President of the United States. Article II, Section 2, outlines the role of the President in military affairs as follows:

The President shall be Commander in Chief of the Army and Navy of the United States, and of the militia of the several States, when called into the actual Service of the United States.<sup>1</sup>

However, the Constitution also provided for a system of shared power;<sup>2</sup> therefore, Congress was also given a role in military affairs. Article I, Section 8, outlines the role of Congress as follows:

The Congress shall have Power to lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States; To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water; To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years; To provide and maintain a Navy; To make Rules for the Government and Regulation of the land and naval Forces; To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions; To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress.<sup>3</sup>

### **Congressional-Military Relations (1787-1860)**

**Organization.** The Constitution reflected the attitudes of a populace inherently suspicious of a large standing army.<sup>4</sup> As a result, the practice of maintaining a small permanent army and supplementing it when necessary became the norm during this period.<sup>5</sup> Congress did not have the same concerns about a standing navy, however, and passed legislation in 1798 to create a separate Navy Department<sup>6</sup> and reestablish the Marine Corps.<sup>7</sup> In 1816, Congress set up several standing committees to ensure financial oversight of the military departments: the House Navy Committee, House War Committee, Senate Military Affairs Committee, Senate Militia Committee, and the Senate Naval Affairs Committee.<sup>8</sup> In fact, exercise of its power of the purse through the various congressional committees was Congress's primary involvement in military affairs during this period.

**Funding.** Initially, Congress approved lump-sum appropriations for military activities already authorized by statute and then allowed the Executive Branch to allocate the money as it saw fit. In the Appropriations Act of 1791, however, Congress began to identify specifically how military appropriations were to be spent.<sup>9</sup> Within two years, the process had evolved to the point of itemizing appropriations for such end items as firewood, stationary, and printing. However, the War Department began to transfer appropriations within the Department in order to pay for contingencies; an example was the call-up of the militia to suppress the Whiskey Rebellion in 1793.<sup>10</sup> This practice sparked a long debate between Congress and the Executive Branch over the intra-department transfer of appropriations. This debate was not formally resolved; however, by 1801, Congress, through inaction, had effectively acquiesced to the Executive Branch. In the Appropriations Act of 1809, Congress officially reemphasized the principle of earmarking appropriations but authorized the President to transfer funds within a department and report the transfer to Congress after the fact.<sup>11</sup> The formal two-step budget process (authorization followed by appropriation) was generally followed during this period, with the exception of wartime emergencies. During the 1820s and 1830s, however, this process began to be distorted through the practice of attaching amendments, known as riders, to appropriation bills.<sup>12</sup> These riders typically put limitations or conditions on the use of appropriations as a way to influence policy independent of the authorization step.

**War Powers.** The question of which Branch has the authority to commit American military forces abroad emerged during this period and has remained unsettled to this day. President Jefferson established one pattern during his presidency which has become

common. He initiated military action against the Barbary pirates without congressional action; eight months later Congress formally recognized a state of war. Another pattern that emerged was the President obtaining approval from Congress prior to committing forces, as President Madison did for the War of 1812.<sup>13</sup> However, even though members of Congress often expressed dissenting opinions on commitment of military forces, Presidential initiatives were typically either formally approved or tacitly approved through inaction.

**Investigation.** A congressional power first exercised during this period which has significantly impacted the military is the power of investigation. This power is not explicitly assigned to Congress by the Constitution, but derives from its other powers. In 1792, the House of Representatives set up an ad hoc committee to investigate General Arthur St. Clair's disastrous expedition against the Wabash Indians.<sup>14</sup> President Washington cooperated fully with the committee and thus gave legitimacy to this congressional action. This case established a precedent that Congress would exercise investigative power through such committees, and almost every military operation since that time has been the subject of a congressional investigation.<sup>15</sup>

### **Congressional-Military Relations (1860-1945)**

**Organization.** The traditional American aversion to a large standing army continued during this period. After every major conflict, Congress acted to control the military's size by reducing the expanded wartime military to peacetime levels. During this period, Congress enacted the first legislation to significantly reorganize the armed forces with the Army Reorganization Act of 1903.<sup>16</sup> The most significant feature of this legislation was

the delineation of the operational chain of command from the President to the Secretary of War to the field commander, bypassing the Army Chief of Staff.

**Funding.** A series of congressional actions after the Civil War, like the 1876 Holman Rule, reduced the power of the appropriations committees by shifting appropriation power to the authorization committees. As a result, Congress began to use appropriation legislation instead of programmatic legislation to establish policy. After World War I, Congress restored the traditional two-step authorization-appropriation process in the Budget and Accounting Act of 1921.<sup>17</sup> This act also authorized the President to submit a budget to Congress each year. Another significant change during this period was the trend toward voting lump-sum appropriations for permanently authorized military programs.<sup>18</sup>

**War Powers.** During the Civil War, Congress gave President Lincoln significant war powers.<sup>19</sup> Immediately following the war, however, it quickly attempted to reassert itself in military affairs, passing legislation to limit President Johnson's powers.<sup>20</sup> Granting of broad discretionary powers to the Commander-in-Chief during wartime and then withdrawing them soon after was a common practice until the end of World War II.<sup>21</sup> Despite this, the Executive Branch continued to commit military forces abroad without Congressional authorization. In practice, Congress did not question the President's authority to commit military forces for small operations.<sup>22</sup> However, when the question of getting involved in major conflicts arose, like World War I and World War II, Congress resisted the commitment of forces (mostly by exercising its power of the purse) until the country was drawn into the conflict by a direct threat to its security. As in

previous conflicts, Congress quickly closed ranks behind the President, granted him broad powers, and allowed him to take the lead in prosecuting the war.

**Investigation.** One of the most visible applications of Congress's power of investigation during this period was during the Civil War when it formed the Joint Committee on the Conduct of the War. The Committee was charged to "investigate past, present and future defeats, the orders of executive departments, the action of generals in the field, and the questions, of war policies."<sup>23</sup> This committee was established after the Union's defeat at the First Battle of Bull Run and became a counter to President Lincoln's expanded war powers. Among other things, the committee involved itself in military strategy and operations and leaked classified information to the press.

### **Congressional-Military Relations (1945-1995)**

**Organization.** The end of World War II marked an increase in the President's control over military affairs. Before the war, Congress had been closely involved in military decisions on such issues as weapons selection, basing, and active-duty force structure.<sup>24</sup> During the war, those decisions shifted to the President as part of his expanded wartime powers. However, unlike previous practice, control over those important issues remained with the Executive Branch after the war ended. Congress did retain oversight of such administrative issues as recruitment, pay and personnel policy, organization, construction, and reserve forces. After the war, Congress had its most visible impact on the military by enacting reorganization legislation.

The first significant change was the 1947 National Security Act.<sup>25</sup> Among other things, it designated the Secretary of Defense to exercise general authority, direction, and control over the armed forces; established the Air Force as a separate service; established

the Joint Chiefs of Staff (JCS) as a permanent agency and made it principal military advisor to the President and Secretary of Defense; and gave the Service Secretaries cabinet rank. The 1949 revision to this act increased the power of the Secretary of Defense while reducing the powers of the Service Secretaries and eliminating their Cabinet status. It also created the office of the Chairman of the Joint Chiefs of Staff (CJCS), though the position had limited power. The 1958 Department of Defense (DOD) Reorganization Act placed all combat forces under unified and specified commands which were under the immediate direction of the Secretary of Defense. The Service Departments were taken out of the chain of command and were restricted to their present roles of organizing, recruiting, equipping, and training.

The most recent legislated change to military organization is the Department of Defense Reorganization Act of 1986 (Goldwater-Nichols Act). It defined the role of the CJCS as the principal military advisor to the President and Secretary of Defense; created the position of a Vice Chairman designated senior to the other members of the JCS; strengthened the role of the CJCS; specified the operational chain of command to run from the President to the Secretary of Defense to the unified and specified combatant commanders; and established a new joint officer specialty.<sup>26</sup> The overall effect of this legislation on the military has been to formalize and promulgate joint warfighting practices among the Services. Another act with far-reaching implications for the military was the Inspector General Act of 1978, which was intended to curb fraud, waste, and abuse by setting up Inspector General (IG) offices in executive agencies.<sup>27</sup> The DOD IG now has some 25,000 investigators and auditors under its control.<sup>28</sup>

**Funding.** The end of World War II triggered the start of the Cold War and there was strong agreement between Congress and the Executive Branch on the need for a strong defense.<sup>29</sup> In 1959, Congress attempted to reassert its control over military spending by passing legislation which required the annual renewal of authorizations for major weapons system research, development, and procurement before funds could be appropriated.<sup>30</sup> Before this time, there was permanent general legislation which authorized these appropriations. The significance of this act was that it eliminated traditional congressional rubber stamping of DOD budget requests and actively involved Congress in approving military programs and spending; however, in practice DOD requests were generally approved.<sup>31</sup> But by the late 1960s, general dissatisfaction with the military and the Vietnam War, and concern over domestic programs, led Congress to more actively exercise its power of the purse.<sup>32</sup> Congress cut off funds for US military operations in Cambodia and amended the 1970 Defense Appropriations Act to prohibit funding for US ground combat troops in Laos and Thailand.<sup>33</sup> The deterioration of public support for the military during the 1970s was paralleled by a significant decrease in congressional support for military programs.<sup>34</sup> Since the early 1980s and the Reagan era, congressional support for military programs and spending has increased; however, Congress has not decreased its focus on or relinquished its control over the details of annual DOD authorizations and appropriations.

**War Powers.** The Vietnam War energized the debate over which Branch has the constitutional authority to wage war. In 1973, Congress decided to reverse its long-standing practice of generally deferring to the Executive Branch in such matters by passing the War Powers Resolution.<sup>35</sup> This resolution limits the President's ability to

send military forces abroad into hostile situations without a declaration of war or other congressional authorization. The Resolution has been controversial since its enactment because of differing Legislative and Executive Branch interpretations over the constitutionally mandated war powers of each. Operation Desert Shield/Desert Storm was a classic example of these different interpretations. President Bush initially deployed American troops without consulting with Congress, and repeatedly claimed that he did not require congressional authorization to launch military operations against Iraq.<sup>36</sup> On the other hand, Congress repeatedly claimed that only it could authorize such a military commitment. In the end, President Bush did ask for and receive a joint resolution approving the use of military force.<sup>37</sup>

**Investigation.** Overall, the military was relatively free of congressional oversight through World War II.<sup>38</sup> However, when Congress passed the Legislative Reorganization Act of 1946 this relationship changed. Among other things, the act approved a permanent budget for congressional investigation, expanded the number of professional congressional staffers, and authorized the committees to “exercise continuous watchfulness” over the Executive Branch.<sup>39</sup> This action has increased Congress’s ability to oversee the most minute details of Executive Branch activities and the number of congressional investigations into military affairs has grown significantly. One estimate puts the annual cost of congressional oversight of the military at \$10 billion per year.<sup>40</sup>

## Notes

<sup>1</sup>United States, *The Constitution of the United States*, (Washington D.C.: US Government Printing Office, 1989), 11.

<sup>2</sup>John Lehman, *Making War*, (New York: Macmillan Publishing Company, 1992), ix.

<sup>3</sup>*The Constitution of the United States*, 6.

<sup>4</sup>Andrew J. Goodpaster and Samuel P. Huntington, *Civil-Military Relations*, (Washington: American Enterprise Institute for Public Policy Research, 1977), 8.

<sup>5</sup>Ibid.

<sup>6</sup>Alvin M. Josephy Jr., *The American Heritage History of the Congress of the United States*, (New York: American Heritage Publishing Company, 1975), 101.

<sup>7</sup>Ibid, 114.

<sup>8</sup>Ibid, 157.

<sup>9</sup>William C. Banks and Peter Raven-Hansen, *National Security Law and the Power of the Purse*, (New York: Oxford University Press, 1994), 34.

<sup>10</sup>Ibid, 35.

<sup>11</sup>Ibid.

<sup>12</sup>Ibid.

<sup>13</sup>Ellen C. Collier, *The War Powers Resolution: 20 Years of Experience*, (Washington: Congressional Research Service, The Library of Congress, 11 Jan 94), 1.

<sup>14</sup>Lehman, *Making War*, 77-78.

<sup>15</sup>Ibid, 157-158.

<sup>16</sup>Joseph B. Hamilton, LT, USN, *Civilian Control and the American Military, Myths and Realities*, (Monterey, CA: US Naval Postgraduate School, 1987), 17.

<sup>17</sup>Samuel P. Huntington, *The Soldier and the State*, (Cambridge, MA: The Belknap Press of Harvard University Press, 1985), 252.

<sup>18</sup>Banks and Raven-Hansen, 46-48.

<sup>19</sup>Josephy Jr., 229.

<sup>20</sup>Ibid, 243.

<sup>21</sup>Lehman, 69.

<sup>22</sup>Josephy, 319.

<sup>23</sup>Ibid, 326, 364.

<sup>24</sup>Lehman, 158-159.

<sup>25</sup>Goodpaster and Huntington, 10-11.

<sup>26</sup>Joseph B. Hamilton, 23.

<sup>27</sup>Lehman, 170, 248.

<sup>28</sup>Jimmy R. Moore, LTC, USA, *Congress and the Army—Bridging the Gap*, (Carlisle Barracks, PA: US Army War College, 1983), 14.

<sup>29</sup>Lehman, 250.

<sup>30</sup>Goodpaster and Huntington, 11.

<sup>31</sup>Moore, 17.

<sup>32</sup>Banks and Raven-Hansen, 5.

<sup>33</sup>Moore, 20.

<sup>34</sup>Collier, 1.

<sup>35</sup>Ibid, 3.

<sup>36</sup>Lehman, 78.

<sup>37</sup>Hamilton, 45.

<sup>38</sup>Lehman, 160.

<sup>39</sup>Robert R. Ivany, LTC, USA, *Soldiers and Legislators: A Common Mission*, (Carlisle Barracks, PA: US Army War College, 1990), 2.

<sup>40</sup>Lehman, 248.

## **Chapter 2—Basic Legislative Process**

This chapter provides a brief “civics lesson” to help Air Force members increase their understanding of the environment in which congressional-military relations take place. This environment, and its attendant processes, shapes the legislation that affects the Air Force.

Rooted in guidance set forth in the Constitution of 1787, the basic legislative process, or the evolution of a bill into law, is principally orchestrated by the Legislative Branch.<sup>1</sup> This intricate process involves the dynamic interaction and influence of numerous external and internal organizations and interests. What follows is an exploration of the basic legislative process and the organizations and components that play a role in that process. The chapter begins with a rudimentary description of the three branches of government, Executive, Legislative, and Judicial; it then moves to a more detailed description of the important components of the Legislative Branch. Finally, the chapter culminates with a description of how a bill becomes law.

### **The Executive Branch**

The Executive Branch includes the President, the Cabinet Secretaries, their departments, and the President’s staff and political appointees. The Constitution stipulates that the executive power of the United States shall be vested in a single person, the President of the United States.<sup>2</sup> The Constitution also outlines the President’s role as Commander-In-Chief, and it is important to note that the DOD organizationally falls under the jurisdiction and authority of the Executive Branch. The Executive and Legislative Branches are inextricably linked to each other; despite measures of autonomy,

each Branch can, and does, affect the operations of the other. For example, the President, as the country's Chief Executive, maintains certain legislative powers, including the ability to veto bills, make treaties, and to convene one or both chambers of Congress if necessary. In fact, much of the legislation considered by Congress originates in the Executive Branch. The President can issue rules and regulations, make proclamations, and draft executive orders. Ultimately, the power of the presidential veto, or even the threat of using it, is a potent political tool affecting legislative struggles with Congress.<sup>3</sup>

### **The Legislative Branch**

As outlined in Article I of the Constitution, the Legislative Branch, or Congress, is comprised of two chambers, the House of Representatives and the Senate.<sup>4</sup> Also included in Congress, though not described in the Constitution, are the committee system and the congressional staffs. The two chambers of Congress exercise leverage over the actions and influence of the Chief Executive. Congress maintains the Constitutional obligation to count electoral votes; in the absence of a majority, the House selects the President while the Senate chooses the Vice President. The Senate confirms presidential appointments and ratifies treaties orchestrated by the Executive Branch. The House of Representatives is vested with sole power to originate revenue bills through authorizations and appropriations.<sup>5</sup> Historically, the Senate could accept or reject House proposals but not modify them. Later, this changed to allow Senate alterations or amendments to revenue bills. The power of the purse allows Congress to either facilitate a presidential agenda or cripple it with fiscal obstacles. Congress also exercises another powerful tool, the principle of oversight. Both chambers can launch investigations to ensure that Executive Branch practice fulfills legislative intent.

## **The Judicial Branch**

The Judicial Branch provides the oversight and regulation that is key to the checks and balance envisioned by the Constitutional architects. The Judicial Branch includes the Supreme Court and the many subordinate federal district courts. The Founding Fathers envisioned the Supreme Court as a “supreme tribunal” to try all cases that threaten the “national peace and harmony.”<sup>6</sup> The power to appoint Supreme Court and other federal judges is vested in the Executive Branch and the power to impeach those judges belongs to the Legislative Branch. Article VI of the Constitution contains the supremacy clause which decrees that the “Constitution, and the Laws of the United States...and all Treaties made” are the supreme law of the land, and judges must uphold them over individual state laws that might conflict.<sup>7</sup> The supremacy clause was designed to prevent states from undermining the legislative power of the national government, and is the source of the Oath of Allegiance administered to members of Congress and other governmental officials, judicial officers, and members of the armed forces.<sup>8</sup>

## **Components of Congress**

Article I of the Constitution vests all legislative powers of the United States in a Congress composed of two chambers, the House of Representatives and the Senate. The First Congress from 1789-1791 consisted of 65 representatives and 26 senators.<sup>9</sup> Today, there are 435 representatives and 100 senators that share the responsibility for enacting our laws and overseeing the daily operations of the government.<sup>10</sup>

## **The House of Representatives**

The House of Representatives differs from the Senate in many ways. Four times larger than the Senate, the House conducts its daily affairs in a more orderly, predictable, and controlled manner, and relies on strict adherence to the numerous rules that regulate the legislative process.<sup>11</sup> House actions are intended to represent the will of the population, and are designed to recognize and follow majority rule. The Speaker of the House is the only House officer specifically mentioned in the Constitution.<sup>12</sup> Normally among the most senior and loyal of the majority party, the Speaker has the difficult task of building consensus among the dissimilar agendas of 435 members and the numerous committees and subcommittees which dominate the legislative process. The hectic life of a Representative is further complicated by the short two-year term of office. This means that a Representative's agenda is dominated by re-election concerns and he/she must constantly juggle official business in Washington with frequent trips home to his/her district.

## **The Senate**

Six-year terms of office ease the pressing need for Senators to expend time and energy towards re-election. Although the Senate has many elaborate rules of its own, the legislative process is characterized as much more informal, with remarkable respect given to even freshman senators. In the spirit of checks and balances, the Senate shares the power of the purse with the House; however, the Senate alone holds the power to confirm Executive Branch appointees and military promotions, ratify treaties, and convene impeachment proceedings.<sup>13</sup> Like the House, the Senate conducts much of its business in numerous standing committees and convenes special committees as required.

## **The Committee System**

Whether in the House or Senate, most congressional work is accomplished by committees. The Constitution directs that both chambers of the legislature must agree on any legislation forwarded to the President for signature and enactment.<sup>14</sup> This need for coordination, along with the increasing size and workload of both chambers, led to the evolution of committees. A Representative once said, “Congress is a collection of committees that come together in a chamber periodically to approve one another’s actions.”<sup>15</sup> In addition to providing an environment to focus attention on legislation, Congress uses its committee system to gather necessary information through testimony.<sup>16</sup> Great power is vested in the chairman of a congressional committee. Because of prerogatives, prestige, and leadership opportunities, a chairman is usually the most influential member of a committee, and the committee often reflects his/her will and character.<sup>17</sup> A chairman has the power to kill a proposed bill simply by refusing to schedule it for deliberation.<sup>18</sup> A Representative or Senator is usually a member of four to six committees or subcommittees, but can be chairman of only one.

Legislation may originate from many sources, but regardless of its origin, a bill is assigned by either the Speaker of the House or the presiding officer of the Senate to an appropriate committee.<sup>19</sup> A proposed bill may continue its journey to a subcommittee where it will be analyzed and debated. Frequently, standing committees generate their own legislation, draft a bill, and “report” it to the parent chamber where it will ultimately be brought to a vote. If a bill is looked upon unfavorably, it will usually die in committee; it is very difficult to bring a bill to a floor vote without committee approval.<sup>20</sup> A bill may be referred to more than one committee or the Speaker, with the approval of

the House, may set up an ad hoc committee to address the bill.<sup>21</sup> The important point is that committees are the true workshops of Congress and are integral to the legislative process.

### **Types of Committees**

Congress maintains and uses a number of committees. There are standing committees, subcommittees, select or special committees, joint committees, and conference committees.

*Standing committees* are the little legislatures of Congress.<sup>22</sup> They are permanent committees that continue from Congress to Congress. The Senate maintains sixteen standing committees while the House has twenty. In these committees, a member of Congress usually develops a career-long expertise in a particular area of legislative interest. These activities represent a large part of Congress's daily business. Standing committees address broad areas of concern such as agriculture, the budget, or foreign affairs. A standing committee can dispatch a bill in the following ways: it can approve or "report" the legislation without amendments, it can rewrite the bill entirely, it can reject the bill, or it can avoid placing the bill on the committee's agenda and effectively kill it.<sup>23</sup>

Most standing committees delegate their workloads to several *subcommittees*. It is at this rudimentary level that most legislation is prepared for presentation to the standing committee then sent to the full House or Senate. Like standing committees, subcommittees vary in their rules, policies, schedules, and staff arrangements. Although quite rare, a subcommittee can be further divided into "sub-subcommittees" to increase the division of labor.<sup>24</sup>

*Select or special committees* refer to temporary panels that normally convene for the two-year duration of one Congress. There are several reasons a special committee may form. Individual members of Congress may wish to investigate a particular issue of interest for which there is no established committee. Examples include the Iran-Contra Affair and, more recently, the Whitewater Development Corporation. Sometimes a select committee is established to supplement the focus of a standing committee that does not have enough time or resources to complete its task.<sup>25</sup> Finally, select committees can be the answer to the overlapping areas of jurisdiction of two or more standing committees. Examples of this type of select committee are the House Permanent Select Committee on Intelligence (HPSCI) and the Senate Select Committee on Intelligence (SSCI).

*Joint committees* are permanent in nature and are composed of members from both the House and the Senate. The principal purpose of a joint committee is the study, investigation, or oversight of a particular issue.<sup>26</sup> House members of joint committees are usually appointed by the Speaker, while Senate members are routinely appointed by the presiding officer of the Senate. The chairmanship of joint committees rotates each Congress, or every two years, between the House and Senate.

The final type of committee is a *conference committee*. As a bill proceeds through both chambers of Congress, it may evolve differently. When this occurs, Congress must settle on a final version of the bill before sending it to the President for his signature. To negotiate the final acceptable version of a bill, temporary bipartisan conference committees are formed. Conference committees can be characterized as highly politicized favor-trading sessions that are directly affected by House and Senate rivalry and the congressional senior leadership.<sup>27</sup>

## **Committees of the House of Representatives**

In the House of Representatives, four committees have a direct impact on the Department of Defense and the United States Air Force: (1) the Committee on National Security (HNCS), (2) the Committee on Appropriations, National Security Subcommittee (HAC/NS), (3) Military Construction Subcommittee of the Committee on Appropriations (MILCON), and (4) the Permanent Select Committee on Intelligence (HPSCI). The HNCS maintains jurisdiction over such things as the common defense, armed forces installations, armed forces member issues, size of the armed forces, strategic and critical materials, international arms control and disarmament, interoceanic canals, and military research and development. It is important to note that the Committee on National Security is an authorization committee; it determines what programs the government is authorized to pursue and operate. The HAC/NS Subcommittee maintains jurisdiction over the Department of Defense and the four Services, the Office of the Secretary of Defense (OSD), the Central Intelligence Agency (CIA), and the Intelligence Community. The Committee on Appropriations actually appropriates the money to fund what the Committee on National Security authorized. The MILCON Subcommittee enacts a separate appropriations bill that receives its own public law number when signed; however, there is no separate MILCON authorization bill.<sup>28</sup> The HPSCI is responsible for oversight of intelligence program authorizations and activities. It also coordinates oversight of reported intelligence issues; for example, it monitors overseas intelligence activities and appropriations for intelligence collection systems.<sup>29</sup>

## **Committees of the Senate**

The four Senate committees that are of particular importance to the Department of Defense and the Air Force are the following: (1) the Committee on Armed Services (SASC), (2) the Committee on Appropriations, Defense Subcommittee (SAC/D), (3) Military Construction Subcommittee of the Committee on Appropriations (MILCON), and (4) the Select Committee on Intelligence (SSCI). The SASC maintains jurisdiction over such issues as the following: common defense, the DOD and the four Services, the maintenance and operation of the Panama Canal and the Canal Zone, national security aspects of nuclear energy, military research and development, armed forces member pay and benefits, the Selective Service System, and strategic and critical materials. Like its counterpart in the House, the SAC/D Subcommittee focuses on the DOD, the four Services, the OSD, the CIA, and provides Intelligence Community oversight. Again, the Committee on Armed Services is an authorizations committee whereas the Committee on Appropriations provides funding for legislated proposals. The MILCON Subcommittee enacts a separate appropriations bill that receives its own public law number when signed. Just as in the House, there is no separate MILCON authorization bill.<sup>30</sup> The SSCI has many of the same oversight responsibilities as its counterpart in the HPSCI.<sup>31</sup>

## **Committee Staffs**

Just as individual members of Congress have their staffs, committees are also authorized their own staffs. Although staff functions differ from committee to committee, in general they perform administrative (chief clerk), substantive (professional aides), political (staff director and chief counsel), and public relations (press officer)

duties.<sup>32</sup> They also establish committee policies, suggest alternative legislation, advise members on how to vote, and oversee administration of pertinent laws.

### **The Washington Lobbyists**

Any description of the legislative process must acknowledge the influential role of Capitol Hill lobbyists. Lobbyists represent special interest groups, and they have been wielding formidable power since the days of the First Continental Congress.<sup>33</sup> Lobbyists include foreign government representatives, former military officers, former government officials, commercial agents, concerned citizens, and even former members of Congress. Lobbyists help to educate Congress, involve the public, and provide issues for debate; however, their goal is to influence Congress on legislation that affects a select segment of society.<sup>34</sup> Lobbyists attempt to influence the legislative process at the very beginning through direct contact with Congressional members and their staffs. In fact, much drafting, amending, and analyzing of legislation is done by lobbyists in conjunction with committee staffs.<sup>35</sup>

### **The Legislative Process: How a Bill Becomes a Law**

The legislative process is the complex method our Congress uses to take an idea and shape it into a law. The process is steeped in tradition and founded on the original guidance of our Constitution. The first step is to identify an issue or subject upon which to propose legislation. Sources of legislation include individual members of Congress, congressional committees, lobbyists or special interest groups, or constituents.<sup>36</sup> Today, much of the legislation considered by Congress originates in the Executive Branch. Examples include proposals raised in the President's annual State of the Union Address.<sup>37</sup>

Once potential legislation is identified, it must be introduced, or sponsored, by a member of Congress.<sup>38</sup> After framing the legislation in the proper language, the sponsor submits it for introduction on the floor of his/her respective chamber. In both the House and Senate, the bill is numbered, entered into the Congressional Record, and normally assigned to the appropriate committee without initial deliberation on the floor.<sup>39</sup>

There are several types of legislation that can be considered and acted upon by Congress. *Bills*, prefaced by “HR” in the House and “S” in the Senate, are the most common form of legislation. When passed in identical form by both chambers and signed by the President, bills become laws.<sup>40</sup> *Joint resolutions*, prefaced by “HJ Res” in the House and “SJ Res” in the Senate, must also be approved by both chambers. When signed by the President, they have the same force of law as an enacted bill; there is little difference between bills and joint resolutions. One exception is that joint resolutions written as Constitutional amendments are not sent to the President for his signature, but are sent directly to the fifty states for ratification by a three-fourths majority.<sup>41</sup> *Concurrent resolutions*, designated “H Con Res” for the House and “S Con Res” for the Senate, are normally used to express a congressional opinion or policy. When passed by the House and Senate in the same form, these provide a measure of “housekeeping,” affecting the operations of both chambers.<sup>42</sup> Concurrent resolutions do not go to the President and do not have the force of law. Finally, a *simple resolution*, designated “H Res” for the House or “S Res” for the Senate, affects the operations or rule of only one chamber of Congress. This is occasionally used to express the opinion of one chamber regarding a current issue.<sup>43</sup> Like a concurrent resolution, a simple resolution is not sent to the President and is not considered a law.

Once a bill is in committee, the committee members may act upon it in several ways. They may consider the bill and report it favorably to the full chamber, make amendments to it, rewrite it entirely, or refuse to consider it at all. If the bill is placed on the committee calendar, the committee may solicit preliminary inputs from interested agencies in the government. These are called agency views. The bill may be assigned by the committee chairman to a subcommittee with a time limit to report to the full committee.<sup>44</sup>

Once in subcommittee, hearings are scheduled on the bill and public and private witnesses are invited to testify. Hearings serve several purposes; they are a means to gather information on the subject of the proposed bill, to measure public opinion, to build support for the legislation, or perhaps to delay the bill's progress through Congress.<sup>45</sup> After the subcommittee adjourns, a "mark-up" session begins where the bill is amended, rewritten, or left unchanged in preparation for consideration by the full committee. The full committee may repeat the subcommittee's review procedures but often it ratifies the "reported" version of the bill, deferring to the resident expertise on the subcommittee.<sup>46</sup> When the full committee is satisfied with the language, amendments, and intent of the bill, it is sent to the chamber floor for a vote.

In the House, the Rules Committee functions as the legislation flow coordinator and regulates when and how the reported bill will be debated on the chamber floor.<sup>47</sup> The Senate sets its legislative priorities and schedules its time through unanimous consent agreements. These are "gentlemen's agreements" that are more informal but roughly equivalent to the House rules.<sup>48</sup> Once the groundwork has been set, the next step is floor

action. Floor action involves regulated debate in accordance with the previously established rules. After debate, floor action culminates with a vote on the bill.

When the bill is approved by one chamber, it is sent to the second chamber for approval. If the bill is approved by the second chamber, it often has been amended further and a Conference Committee must be convened to resolve disagreements between the two chambers. It is at this point that congressional staffs are deeply involved in bargain making, lobbyists and Executive Branch officials are actively trying to influence the outcome, and committee chairmen are cutting deals.<sup>49</sup>

The final step in the process is securing the President's signature. Addressing a proposed bill, the President has the following three choices: (1) he can sign the bill into law, (2) he can veto the bill and return it to the Congress, where a two-thirds majority vote is required to overturn a veto, or (3) he can take no action.<sup>50</sup> If he chooses to take no action and the Congress does not adjourn within ten days, the bill is automatically enacted into law. If Congress does adjourn within ten days of the delivery of the bill to the President's desk, he can choose to ignore it and it will not become law. This seldom-used political tool is called a pocket veto.<sup>51</sup>

## Notes

<sup>1</sup>Donald E. DeKieffer, *How to Lobby Congress*, (New York: Dodd, Mead and Company, 1981), 37.

<sup>2</sup>United States, *The Constitution of the United States of America*, Article II, Section 1.

<sup>3</sup>*Congress A to Z: Congressional Quarterly's Ready Reference Encyclopedia*, (Washington D.C.: Congressional Quarterly Press, 1988), 139.

<sup>4</sup>United States, *The Constitution of the United States of America*, Article I, Section 7.

<sup>5</sup>*ibid.*

<sup>6</sup>*Origins and Development of Congress*, (Washington D.C.: Congressional Quarterly Press, 1988), 80.

<sup>7</sup>United States, *The Constitution of the United States of America*, Article VI.

<sup>8</sup>*Origins and Development of Congress*, 82.

<sup>9</sup>Diamond, Robert A. and Patricia Ann O'Conner, ed. *Guide to Congress*, (Washington D.C.: Congressional Quarterly Press, 1988), 335.

<sup>10</sup>Roger H. Davidson and Walter J. Oleszek, *Congress and Its Members*, (Washington D.C.: Congressional Quarterly Press, 1985), 25.

<sup>11</sup>*How Congress Works*, (Washington D.C: Congressional Quarterly Press, 1991), 39.

<sup>12</sup>United States, *The Constitution of the United States of America*, Article I, Section 2.

<sup>13</sup>United States, *The Constitution of the United States of America*, Article I, Section 3.

<sup>14</sup>United States, *The Constitution of the United States of America*, Article I, Section 2.

<sup>15</sup>Clem Miller, *Member of the House: Letters of a Congressman*, John W. Baker ed., (New York: Charles Scribner's Sons, 1962), 110.

<sup>16</sup>John D. Lees, *The Committee System of the United States Congress*, (New York: Humanities Press, 1966), 2.

<sup>17</sup>Matthew C. McCubbins and Terry Sullivan, *Congress: Structure and Policy*, (Cambridge: Cambridge University Press, 1987), 150.

<sup>18</sup>Davidson and Oleszek, 215.

<sup>19</sup>Edward F. Willett, Jr., *How Our Laws Are Made*, (United States Government Printing Office, 1989), 4.

<sup>20</sup>*Congress A to Z*, 83.

<sup>21</sup>*How Federal Laws are made*, (Washington D.C.: WANT Publishing, 1995), 7.

<sup>22</sup>Davidson and Oleszek, 208.

<sup>23</sup>*How Congress Works*, 44.

<sup>24</sup>Malcom E. Jewell and Samuel C. Patterson, *The Legislative Process in the United States*, (New York: Random House, 1973), 242.

<sup>25</sup>Lees, 8.

<sup>26</sup>*Congress A to Z*, 85.

<sup>27</sup>Lees, 11.

<sup>28</sup>*Congressional Yellow Book*, (Washington D.C.: Leadership Directories, Inc., Spring 1995), IV-46, IV-14.

<sup>29</sup>Duport, Luis, Senate Select Committee Intelligence, Staffer, personal phone interview, 7 March 1996.

<sup>30</sup>*Congressional Yellow Book*, III-7, III-14.

<sup>31</sup>Duport, 7 March 1996.

<sup>32</sup>George Goodwin, Jr., *The Little Legislatures*, (Massachusetts: University of Massachusetts Press, 1970), 143.

<sup>33</sup>*The Washington Lobby*, (Washington D.C.: Congressional Quarterly Press, 1979), 1.

<sup>34</sup>*Ibid*, 3.

<sup>35</sup>DeKieffer, 115.

<sup>36</sup>*How Congress Works*, 42.

<sup>37</sup>Diamond and O'Conner, 338.

<sup>38</sup>*Congress A to Z*, 246.

<sup>39</sup>*How Federal Laws are made*, 7.

<sup>40</sup>*How Congress Works*, 43.

<sup>41</sup>*Congress A to Z*, 241.

<sup>42</sup>*Congress and its Legislative Process*, (Washington D.C.: Congressional Quarterly Press, 1993), II-1.

<sup>43</sup>*How Congress Works*, 44.

<sup>44</sup>Diamond and O'Conner, 340.

<sup>45</sup>Jewell and Patterson, 477.

<sup>46</sup> Robert U.Goehlert and Fenton S. Martin, *Congress and Law-Making*, (Santa Barbara, California: ABC-Clio, Inc., 1989), 16.

<sup>47</sup>Diamond and O'Conner, 341.

<sup>48</sup>*Ibid.*, 343.

<sup>49</sup>Goodwin, 242.

<sup>50</sup>*Congress A to Z*, 254.

<sup>51</sup>*How Congress Works*, 45.

## **Chapter 3—Air Force Involvement in the Legislative Process**

The impetus for official interaction between Congress and the Air Force is clearly explained in the Congressional Action Plan:

The United States is an aerospace nation. Much of its power and influence come from its aerospace activities. The United States Air Force is the only service directly and completely focused on the full range of the nation's aerospace defense needs. As the DOD's preeminent advocate for aerospace defense activity, it is critical that the United States Air Force have a plan to successfully gain the support and understanding of the Congress.<sup>1</sup>

In order to fully understand how to gain the support of Congress for Air Force programs, it is necessary to understand how the Air Force interacts with Congress. Specifically, Air Force members should understand which Air Force organization has primary responsibility for interfacing with Congress, what role it plays, and how it can assist other Air Force organizations. The Air Force's lead office for gaining "the support and understanding of the Congress" is the Secretary of the Air Force's Legislative Liaison office, SAF/LL.

The stated mission of SAF/LL is "To Promote Air and Space Power Through a Constructive Relationship with Congress."<sup>2</sup> This chapter explains how SAF/LL establishes and maintains that constructive relationship. The discussion begins with an overview of the legal and regulatory environment in which SAF/LL operates. Next, the legislative process is discussed with a focus on how the process works with regards to DOD specific legislation. Then, there is a discussion on SAF/LL's role in the legislative process. Finally, the chapter closes with a description of SAF/LL-produced publications designed to provide information on congressional activity to senior Air Force leaders, the Air Staff, and Major Commands (MAJCOMs).

## **Statutory and Regulatory Environment**

The statutory authority for SAF/LL's mission can be found in United States Code, Title 10, Section 8013. This law clearly directs the Office of the Secretary of the Air Force to assist the Secretary of the Air Force in carrying out his or her responsibilities:

“The Office of the Secretary of the Air Force shall have sole responsibility within the Office of the Secretary and the Air Staff for the following functions . . . (F) Legislative affairs.”<sup>3</sup>

The authority outlined in Section 8013 to oversee legislative affairs, however, is accompanied by Title 18, Section 1913, which contains clear restrictions on lobbying Congress:

No part of the money appropriated by any enactment by Congress shall, in the absence of express authorization by Congress, be used directly or indirectly to pay any personal service, advertisement, telegram, telephone, letter, printed or written matter or other device, intended to influence in any manner a Member of Congress...but this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to Members of Congress on the request of any Member of Congress, through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of public business.<sup>4</sup>

The distinction made between lobbying and communicating to Congress is essential. Also significant is the implication that this is a “two-way” flow of information.

Department of Defense Directives also define the environment in which SAF/LL operates. The DOD General Counsel is responsible for all matters concerning or relating to DOD legislation, other than liaison with the Congress.<sup>5</sup> All DOD legislative proposals actually come from the General Counsel. The Assistant Secretary of Defense, Legislative Affairs (ASD/LA), is charged with being the “principal staff assistant to the Secretary of Defense for DOD relations with Congress.”<sup>6</sup> In paragraph D. of DOD Directive 5142.1, “Relationships,” it states that ASD/LA shall coordinate and exchange information with

DOD components having collateral or related functions.<sup>7</sup> The DOD Directives also establish the policy that, “It is essential to the proper functioning of the US Government that the Congress receive adequate information concerning all Government programs and operations” and that “all DOD components will: Make maximum information available promptly to and cooperate fully with, Members of Congress and congressional committees and their staffs.”<sup>8</sup>

Air Force Policy regarding relations with Congress is found in Air Force Policy Directive (AFPD) 90-4. The Secretary’s direction includes the following:

- The Air Force will ensure that Members of Congress, committees, and their staffs have the best information available for considering Air Force matters.
- Responses to congressional inquiries and reports to the Congress on Air Force programs, operations, and requirements will be accurate and responsive.
- The Air Force will fully justify its legislative and budget proposals to the Congress.<sup>9</sup>

Based on the policy in AFD 90-4, guidance on the responsibilities of SAF/LL and subordinate units is found in Air Force Instruction (AFI) 90-401. According to AFI 90-401, SAF/LL is responsible for the following tasks:

- Developing, coordinating and supervising the Air Force legislative liaison program.
- Ensuring accuracy and consistency on all Air Force information intended for the Congress.
- Keeping members and committees of the Congress advised of Air Force activities in their area of interest. [The flow of information to Congress]
- Evaluating, reporting, and disseminating pertinent legislative information to the Air Force. [The flow of information from Congress]
- Answering executive office and congressional inquiries/correspondence.
- Initiating, where appropriate, recommendations for possible remedial action on inquiries reflecting criticism of Air Force policy.
- Preparing witnesses for congressional hearings.
- Arranging for and coordinating Air Force testimony at congressional hearings.
- Supervising Secretarial and Air Staff review of transcripts, inserts from Air Force congressional hearing testimony, and actual hearing questions taken for the record.

- Supervising congressional travel arrangements and requirements designated as official responsibility of the Air Force.<sup>10</sup>

At this point it is necessary to make a distinction between SAF/LL and the Office of the Assistant Secretary, Financial Management and Comptroller (SAF/FM). The SAF/FM office has authority and responsibility for relations with the congressional Appropriations and Budget Committees. SAF/FM's responsibilities are identical to those outlined in the paragraph above, except that they have responsibility for "tasking and tracking responses to congressional reporting requirements."<sup>11</sup> Also, SAF/FM's role in making travel arrangements is more supportive rather than primary. AFI 90-401 outlines several significant joint responsibilities of SAF/LL and SAF/FM:

- 3.4.1 Securing advance notice of congressional committee hearings or investigations.
- 3.4.2 Coordinating SAF/LL and SAF/FML activities.
- 3.4.3 Coordinating with the proper Air Force Headquarters offices on legislative and budgetary issues.
- 3.4.4 Processing legislation affecting the Air Force.
- 3.4.6 Directing the HQ USAF review of transcripts of Air Force testimony at congressional committee hearings and prepare inserts for the record.<sup>12</sup>

In order to simplify the discussion, the remainder of this chapter refers only to SAF/LL, even though SAF/FM has a parallel responsibility in most areas.

### **DOD Legislation and the Legislative Process**

This section discusses how DOD-specific legislation is initiated and developed through the legislative process. The emphasis here is on how the relevant congressional committees influence and shape that legislation, and what role DOD plays in that process.

The two primary pieces of legislation affecting the DOD are the Defense Authorization Bill and the Defense Appropriations Bill. The four committees that exercise the greatest influence on these bills are the House Committee on National

Security (HNSC); Senate Committee on Armed Services (SASC); House Committee on Appropriations, National Security Subcommittee (HAC/NS); and Senate Committee on Appropriations, Defense Subcommittee (SAC/D).<sup>13</sup> Their roles and functions are outlined in Chapter Two, “Basic Legislative Process.” Although many other committees are involved (for example, the Budget and Military Construction Committees of both chambers), these four are most responsible for shaping the legislation that covers the majority of DOD spending and activities. Jurisdictions of these committees are defined by House and Senate rules. Committee rosters and biographical information are available on the Thomas Internet Home Page. Additional biographical information may be obtained from SAF/LLR.

Based on the President’s and the DOD budgeting process, the DOD General Counsel prepares proposed legislation that is forwarded to the Speaker of the House.<sup>14</sup> This proposed legislation is a baseline and represents the coordinated Executive Branch position on the funding and program requirements of the Department. This legislation is introduced and referred to a committee as discussed in Chapter Two, “Basic Legislative Process.” Although the Defense Authorization and Defense Appropriations bills are initiated at the same time, by custom and tradition they are intended to be sequenced in their consideration. The House authorizers begin work on the Defense Authorization Bill first, followed by the Senate. Next, the House appropriators work on the Defense Appropriations Bill, followed again by the Senate.<sup>15</sup> In practice, however, these processes are taking place simultaneously; it is the products of these committees that are normally completed in this sequence.

How do these committees form opinions that lead them to modify the Executive Branch's proposals? Congress has many resources available to aid it in its deliberations. These include hearings, reports to Congress, and reports from the General Accounting Office.<sup>16</sup> Annually, from March through April, the committees hold legislative hearings.<sup>17</sup> The two types of legislative hearings that DOD is most involved with are posture hearings and specific purpose hearings. Posture hearings are analogous to the State of the Union address for each of the organizations called. The Secretary of Defense is normally scheduled first, appearing with, or closely followed by, the Chairman of the Joint Chiefs of Staff. The next set of witnesses are the CINCs of the Unified Commands. Finally, the Service Secretary and the Chief of Staff from each of the Services testify. During these hearings, the witnesses present their views on the state of their organizations, specific problem areas, and issues that they think warrant congressional attention. The hearings give committee members an opportunity to ask questions regarding the legislative proposals before them. Generally, after the Posture Hearings are complete there is another round of hearings, specific purpose hearings, in which the principals discussed above, as well as lower ranking senior officials, are called upon to testify on specific topics.

After hearings and investigation, the HNSC amends the Authorization Bill in a session, normally closed, called the "mark-up." In the mark-up, the committee members literally mark up the original copy with the adjustments they recommend to the entire House.<sup>18</sup> The committee then publishes its report on the bill.<sup>19</sup> This is the first official time that Congress shows where it differs with the President's proposals. The committee may increase or decrease the amounts identified in the President's budget proposal. The

committee may also insert “language” into the committee report. “Language” and “congressional language” are frequently used terms in the legislative process to describe prose text that either creates an obligation to report on an activity, changes a DOD policy, or restricts the expenditure of funds. The specific wording (e.g., shall, will, directs, recommends) has very specific legal implications and determines whether or not it becomes statutory or non-statutory in direction.<sup>20</sup> Concurrently, the SASC is considering the same piece of legislation. Starting with the same Presidential proposal, and usually considering the HNSC’s amendments and language, the SASC prepares its own amendments and language to modify the bill.<sup>21</sup> After both committees complete their work, the full membership of each chamber approves its own version of the Defense Authorization Bill.

A Conference Committee is convened to reconcile the differences between House and Senate versions of the bill. Once differences are resolved, the modified versions are returned to their respective chambers so that identical versions of the bill can be approved. The version approved by both chambers is called the enrolled version and is sent to the President for his signature.<sup>22</sup> If signed, the bill becomes law. If it is not signed, or is vetoed, it is returned to Congress. Congress can either override the veto with a 2/3 majority or modify the bill to remove the President’s objections. This annual process can be shown on a calendar that represents a notional timetable of events (Attachment 1). A similar process to the one described above for the Defense Authorization Bill is followed in developing the Defense Appropriations Bill. The committees responsible for the Appropriations Bill are the House Appropriations Committee, Subcommittee on National Security, and the Senate Appropriations

Committee, Subcommittee on Defense. Only programs that have been properly authorized *and* appropriated can be executed.<sup>23</sup>

Professional congressional staffers are ever present in this process. The professional staff serve as the eyes and ears of the committee. The term “professional staffer” refers to a congressional staff member attached to a committee, as opposed to a personal staffer assigned to a Member’s personal staff.<sup>24</sup> Throughout the year, professional staffers are learning about the programs to which they have been assigned by the committee. They work with DOD, the Services, and other organizations to gain a better understanding of military requirements and how acquisition programs are progressing. They also try to determine the impact of potential modifications to the President’s proposed budget.

### **SAF/LL’s Role in the Legislative Process**

The SAF/LL is involved in every step of the legislative process because its goal is, “. . . to gain Congressional support for the authorization of and appropriation for a ready force structure by providing quality of life for Air Force people while maintaining an investment in modernization sufficient to ensure relevancy of the force structure in the future.”<sup>25</sup> To accomplish that goal, SAF/LL is charged with the following tasks:

1. Ensure open lines of communication with Congressional Members and their staffs by:
  - a. Conducting office visits and briefings on Capitol Hill.
  - b. Inviting Members and staff to visit Air Force installations and program offices.
  - c. Responding quickly to inquiries from Members and staffs.
2. Ensure responses are accurate and provide complete information during debate of the issues and when answering inquiries.
3. Execute individual program issues action plans.
4. Support testimony before Congress.
5. Provide educational opportunities to the Hill and the Air Staff by:
  - a. Hosting “staff breakfasts” and social activities.
  - b. Dispatching briefing teams as necessary.

- c. Organizing program field trips and providing escort.
- d. Publishing and distributing the annual Air Force Issues Book.
- 6. Track budget marks by:
  - a. Providing inputs to DOD Appeals process.
  - b. Assisting Air Staff development of Budget/Program Fact Papers for Hill distribution.<sup>26</sup>

The SAF/LL has two essential tasks to perform before the annual hearing cycle begins. First, they prepare the Air Force Posture Statement, and second, they prepare the Secretary of the Air Force and Air Force Chief of Staff for testimony.

The Posture Statement is a critical document for the Air Force. It is a written record of the Secretary's and the Chief's assessment of the state of the Air Force. Members of Congress and their staffers will scrutinize this document before the posture hearing so that they can discuss identified issues and shortcomings. This document also has another internal Air Force function. It establishes an official Air Force position on a particular topic and sets its priority.

Although the specific process varies, depending on the individual, SAF/LL is also responsible for preparing the Secretary and Chief of Staff for testimony. The first step involves gathering information on the relevant Air Force programs from the Air Staff and providing detailed summaries to the witnesses. The witnesses then usually participate in one or more “skull sessions.” In a skull session, various issues are brought up, and the witness is given the opportunity to organize and present his/her thoughts and views on the subject. The current Air Force position is then referenced in order to clarify salient points and reinforce desired themes.

After the posture hearings, the congressional committees will normally schedule several specific purpose hearings on individual topics. Examples of these would be

hearings on Air Force acquisition programs or quality of life issues. Instead of a written posture statement, the witness provides a “witness statement.” Similar in function to a posture statement, the witness statement provides the witness’s views on a specific subject. Like the Posture Statement, the witness statement is approved by the Air Staff, and reflects the Air Force’s position on an issue. It is also scrutinized as a source of potential problem areas to be addressed by the committee members and staff.

In addition to preparing senior Air Force leaders to interface with Congress in hearings, SAF/LL works to facilitate open communications between those leaders and Congress. It recommends a schedule of congressional visits, phone calls, and letters for senior Air Force leaders to pursue.<sup>27</sup> The purpose of these interactions is to cultivate a positive relationship so that Congress will have confidence in the information and opinions that Air Force senior leaders provide it. In addition to the hearing process and visits, SAF/LL also seeks to inform Members of Congress and their staffs in less formal settings. The SAF/LL hosts “staff breakfasts” at the Pentagon where professional staff members receive briefings and have the opportunity to address questions to Air Force members knowledgeable about a specific program. When it is not practical for a Member or a staffer to come to the Pentagon, individual or small group briefings are given on Capitol Hill. The SAF/LL also invites Members of Congress and their staffs to visit Air Force installations and program offices. These visits, known as Congressional Delegations or CODELS, enable first-hand viewing of specific programs and a chance to gain a greater appreciation for the role of that program or issue in the national military strategy. Often a congressional request for information will come in the form of a letter.

The Air Staff is tasked by SAF/LL to provide responses to inquiries and SAF/LL transmits the response to Congress.

There are four points in the legislative process where SAF/LL supports the Secretary of Defense's "Congressional Appeal" process.<sup>28</sup> After each of the four congressional committees reports on DOD legislation, the Secretary of Defense may send a short information letter, a Congressional Appeal, to explain the negative impact of a mark-up or language the committee proposes. These letters are used by the next committee or conference that considers the legislation. The issues addressed by appeals are normally of a serious nature. The SAF/LL tasks the Air Staff to prepare draft appeals on Air Force issues; these are forwarded to the Secretary of Defense for consideration and prioritization. Draft appeals that do not have sufficient priority to be forwarded by the Secretary of Defense to the appropriate committee may be forwarded by the Secretary of the Air Force to the committee. These draft appeals, called Budget/Program Fact Papers, are additional information for the committees but do not carry the weight of a Secretary of Defense Appeal.

The SAF/LL also develops and executes "action plans" for specific military programs. Members of Congress have many competing agendas that they are managing simultaneously.<sup>29</sup> An action plan is developed to focus congressional attention on Air Force priority programs. The plan details the education which will be conducted to explain certain controversial programs recommended by the Executive Branch. These plans are developed when the strategic implication of, or military requirement for, a certain program or issue is complex and not readily appreciated by Congress. One issue that is often addressed is whether or not a less expensive commercial version of the

requested item is an acceptable substitute. A classic example of this was the debate between acquiring the C-17 cargo aircraft or a derivative of a commercial cargo aircraft (known as the NDAA). The argument was that the NDAA was cheaper to acquire and operate, and carried more cargo a longer distance. The Air Force developed an action plan to clearly articulate that the C-17 could carry military cargo and deliver it to troops via airdrop or by landing at austere airfields. The NDAA did not have this capability. First, the requirement for the C-17 was stated in the Air Force Posture Statement,<sup>30</sup> and then reinforced by the Secretary's and Chief's posture hearing testimony.<sup>31</sup> The message to congressional staff members was reinforced with briefings at the Pentagon. Finally, a "White Paper" was sent to Congress which provided a detailed report on the Air Force's "Integrated Airlift Acquisition Strategy" and the C-17's role in that strategy.<sup>32</sup>

## **SAF/LL Products**

The SAF/LL, as the Air Force's congressional liaison, is responsible for keeping the Secretary, Chief of Staff, the Air Staff, and the MAJCOMs informed about significant congressional activity that affects the Air Force. In order to accomplish this, SAF/LL produces several internal Air Force publications available to Air Force members. These publications include the following:

- Flash and Hearings: An advance planning schedule of all hearings involving DOD witnesses.
- Hearing Résumés: Résumés are a synopsis of hearings, normally published the day after the hearing. Often, these provide the first feedback about how a hearing went and the issues that were addressed.
- Budget Scorecard (example at Attachment 2): This is an iterative document that gives summary data on each of the Air Force's programs and the legislative language that goes with it. This document is cumulative through each session of Congress and is modified as each committee's and conference's marks are added.

*[Attachment not available]*

**Figure 1. Attachment One**

*[Attachment not available]*

**Figure 2. Attachment Two**

**Notes**

<sup>1</sup>United States, *United States Air Force Congressional Action Plan*, 1995, iii.

<sup>2</sup>United States, *United States Air Force Congressional Action Plan*, 1995, iii.

<sup>3</sup>United States, United States Code, 1994 Edition, Title 10, Section 8013, 357-358.

<sup>4</sup>United States, United States Code, 1994 Edition, Title 18, Section 1913., 365.

<sup>5</sup>United States, Department of Defense Directive 5500.1, 21 May 1964., 2.

<sup>6</sup>United States, Department of Defense Directive 5142.1, 2 Jul 1982., 1.

<sup>7</sup>United States, Department of Defense Directive 5142.1, 2 Jul 1982., 1-2.

<sup>8</sup>United States, Department of Defense Directive 5400.4, 30 Jan 1978., 1-2.

<sup>9</sup>United States, Air Force Policy Directive 90-4, 22 Jul 1993, 1.

<sup>10</sup>United States, Air Force Instruction 90-401, 18 Mar 1994, 2.

<sup>11</sup>United States, Air Force Instruction 90-401, 18 Mar 1994,2.

<sup>12</sup>United States, Air Force Instruction 90-401, 18 Mar 1994, 2-3.

<sup>13</sup>Ann L. Brownson, ed, *1995 Congressional Staff Directory/1*,(Mount Vernon VA: Staff Directories, Ltd), 1995.

<sup>14</sup>United States, Department of Defense Directive 5400.4, 30 Jan 1978, 2.

<sup>15</sup>Diamond, Robert A. and Patricia Ann O'Conner, ed. *Guide to Congress*, (Washington D.C.: Congressional Quarterly Press, 1988), 339.

<sup>16</sup>Thomas B. Cuter and Donald L. Weterfield, *Congressional Intent*, (Westpoint Connecticut: Praeger, 1992), 112.

<sup>17</sup>Diamond and O'Conner, 340.

<sup>18</sup>Arthur Maass, *Congress and the Common Good*, (New York: Basic Books Inc., 1983), 136-141.

<sup>19</sup>Charles Tiefer, *Congressional Practise and Procedure, A Reference, Research, and Legislative Guide*, (New York: Greenwood Press, 1989), 928, 947-948.

<sup>20</sup>Diamond and O'Conner, xxv.

<sup>21</sup>Ibid, 358.

<sup>22</sup>Maass, 217.

<sup>23</sup>United States, *Air Force Posture Team and Action Officer Handbook*, 30 Nov 1995, 3.

<sup>24</sup>James T. Currie, "Testifying on the Hill" *Parameters*, US Army War College Quarterly, Vol XXII, No 4, (Winter 1992-93), 50.

<sup>25</sup>Diamond and O'Conner, 391, 463.

<sup>26</sup>United States, *Air Force Congressional Action Plan*, 1995, 2.

<sup>27</sup>United States, *Air Force Congressional Action Plan*, 1995, 4-9.

<sup>28</sup>United States, *Air Force Congressional Action Plan*, 1995, 4.

<sup>29</sup>United States, *Air Force Congressional Action Plan*, 1995, 2.

<sup>30</sup>United States, Air Force Posture Statement, FY 1996.

<sup>31</sup>David A. Fulghum, "Joint Chiefs to Push C-17, C-33 Mix," *Aviation Week and Space Technology*, (2 Oct 95), 63.

<sup>32</sup>United States, Department of the Air Force, *The Integrated Airlift Strategy, White Paper*, (Feb 1995).

## **Chapter 4—A “How-To” Guide for Air Force Personnel**

This chapter discusses the “ins and outs” of interacting with Congress. The types of interaction discussed include base visits, inquiries, requests for information, hearings, testimony, and reports to Congress. The information provided should not only initially get the Air Force member moving in the right direction, it also provides some guidelines to keep him/her on the right track.

The Air Force lead for all interaction with Congress is SAF/LL. Air Force members should *always* work through SAF/LL for guidance and direction on matters involving Congress. The SAF/LL will, if appropriate, refer the Air Force member to other organizations. For example, you will probably be referred to SAF/FML if the interaction involves matters dealing with appropriations or budgets.

### **SAF/LL Communications References**

The SAF/LL encourages communication directly with them on any issue or question. They can be contacted as follows:

1. Telephone during duty hours: Commercial 703-697-4142/DSN 227-4142
2. Telephone after duty hours through the Air Force Operations Center: Commercial 703-697-6103/6104/6105 or 703-695-7220/DSN 227-6103/6104/6105
3. Fax: Commercial 703-697-2001/DSN 227-2001

### **Base Visits and Community Activities**

**Notification.** Per AFI 90-401, para 4.2, you must notify SAF/LL when local plans or activities generate interest by members of Congress. These activities may include Base Open Houses, Changes of Command, parades, and other ceremonies. Coordinate with SAF/LL when members of Congress or their staffers express interest in attending your

event.<sup>1</sup> Also, consult your MAJCOM's supplement to AFI 90-401 for additional notification requirements.

**Extending an Invitation.** If you plan to invite any member of Congress, congressional staffer, or representative from the Executive Office of the President or the Office of the Vice President, do not extend the invitation directly to the individual you are inviting. Send SAF/LL the signed invitation and a cover letter explaining the details of the event 60 days in advance. If this is not possible, call the Air Force House or Senate Liaison Office to determine the best way to extend the invitation. The SAF/LL can also assist on the proper forms of address.<sup>2</sup>

**Transportation.** If you are inviting members of Congress to attend an event, you must contact SAF/LL to obtain clear guidance on transportation restrictions which may apply.<sup>3</sup> Restrictions on congressional travel apply during election years, and they also apply to partisan political activities. DO NOT mention transportation in the invitation. Before you can commit the Air Force to providing transportation you must wait until SAF/LL requests approval from the Secretary of the Air Force and then notifies you that the request is approved.<sup>4</sup> Once approved, SAF/LL will give you the go-ahead to arrange MILAIR or commercial transportation for the party. In the event that Congress initiates the request to attend the event, SAF/LL will obtain approval from the Secretary of the Air Force and make the necessary air transportation arrangements. You will want to coordinate with the SAF/LL Air Operations Office to track those arrangements. Also, you will be responsible for making all local transportation arrangements.

**Public Announcement.** Do not make any public announcement until SAF/LL confirms that the guest will attend.

## Inquiries

The two types of inquiries which an Air Force member may be required to answer are Constituent Inquiries and Professional Staff Inquiries.

**Constituent Inquiries.** Normally these come from the office of a Senator or Representative and are usually initiated by military personnel, their families, or concerned civilians. These inquiries are categorized as follows: enlistment/commissioning, assignments, matters of money, Inspector General complaint program, voluntary and involuntary separations, Air Force review and corrections boards, legal matters, transportation, retirement, veteran's benefits, internment and honors, armed forces participation in public events, and miscellaneous.<sup>5</sup> Remember, Air Force personnel have the legal right to petition, furnish information to, or communicate with the Congress.<sup>6</sup> Air Force members should use their chain of command before initiating a "congressional." Most issues can be settled successfully through the local commander, IG, chaplain, or family services center. However, no member can be penalized for exercising their right to go to Congress with a petition. The Inquiries Division (SAF/LLI) also operates on a no-reprisal, no-retribution basis.<sup>7</sup>

Typically the SAF/LLI division receives these inquiries from Congress and then contacts the Air Force Subject Matter Experts (SMEs) at the Headquarters level. The SMEs work with SAF/LLI to provide timely responses to these questions. Sometimes the congressional office contacts a field unit directly to obtain answers to constituent inquiries. In this case, the first thing you need to do is to contact SAF/LLI and get them in the loop.

In either case, complete responses or an interim reply must be provided to Congress by SAF/LLI within 30 calendar days of receipt;<sup>8</sup> however, SAF/LLI's goal is to return an answer to Congress within 14 calendar days. Not all inquiries are handled individually. If there are repeated requests on the same issue then the same response would be sent to all of those inquiries. For example, people who wrote to express concern about Captain Scott O'Grady all received the same "boilerplate" reply letter.

**Professional Staff Inquiries.** Normally, the congressional staffers will contact SAF/LL or SAF/FML with their inquiries. The SAF/LL or SAF/FML will then consult their list of SMEs<sup>9</sup> to determine who to pass the question to at the Headquarters level. If these SMEs feel that there is a better-qualified expert in the field, they will contact those people. Normally, this is the only time a wing level response is required. The suspense for responding to Congress is 30 calendar days after receipt.<sup>10</sup>

Occasionally, a staffer will go directly to an individual at the wing/base level with a question. It is very important that you contact SAF/LL immediately. It is SAF/LL's responsibility to ensure that "responses to congressional inquiries and reports to the Congress on Air Force programs, operations, and requirements will be accurate and responsive."<sup>11</sup> No information should be released to Congress unless it has been staffed, or at the very least, coordinated with SAF/LL. Following this guidance ensures that an Air Force member doesn't find himself/herself in the position of unilaterally representing the "official Air Force position" on an issue. Specific guidance is found in AFI 90-401, para 4.3.

## **Requests for Information**

**Congressional Security Clearances.** All Senators and Representatives have Top Secret clearances. They are permitted to see classified documents which are relevant to their committee assignments. If you need to verify the security clearances of congressional staff members, contact the Office of the Secretary of Defense, Legislative Affairs Security Office (OSD/LA).<sup>12</sup>

**Locally Sensitive Information.** Information of great interest to local congressional districts includes information on changes in the status of units and bases. No one may release such information without approval from the Secretary of the Air Force. Refer any inquiries you receive on these sensitive issues to SAF/LL.<sup>13</sup>

**Other Inquiries.** These will normally occur as follow-up questions to a hearing, or they might come from a staffer with whom an Air Force member has worked in the past. AFI 90-401, paragraph 4.3.3., requires all Air Force members to inform SAF/LL immediately. Fax a copy of a written inquiry to the SAF/LLI within 24 hours of the time you receive it. For an inquiry received by telephone, transcribe it and fax it to SAF/LLI within 24 hours of receipt or by the first duty day following a weekend or holiday. The SAF/LL staff will then work with you to ensure the inquiry is answered promptly and factually.

## **Unescorted Investigators**

The only congressional committee which has investigators is the House Appropriations Committee. Any visits by these investigators must be scheduled through the Secretary of Defense and the Services. If one arrives at your base unannounced, call SAF/LL immediately.<sup>14</sup>

## **Hearings**

There are four types of hearings: legislative hearings, investigative hearings, oversight hearings, and confirmation hearings. *Legislative hearings* cover legislative proposals. These are the type that military officers, as representatives of the Executive Branch, are most likely to be involved in. These involve testifying before the appropriate committee or subcommittee regarding the legislation under consideration. These hearings are part of the budget process. *Investigative hearings* are most often a result of a news report or other allegation of wrong-doing. These are the most unpleasant for those who are called to testify. *Oversight hearings* are the tools used by congressional committees to review how the Executive Branch agencies are implementing the “congressional intent” of a certain law. They can call into question everything from the specificity of a certain regulation, to the cost or performance of a particular weapon system. *Confirmation hearings* take place for all presidential nominations and rarely impact military officers. Occasionally a hearing for a four-star flag or general officer will make the news, but they are normally treated as routine business.<sup>15</sup>

There are two categories of hearings: those that take place on Capitol Hill and those that take place in the field.

**Hearings on the Hill.** These are the most common, and normally involve high-level commanders, the Secretary of Defense and Service Secretaries, Service Chiefs and CINCs. The CINCs and Services all present annual posture statements to Congress, and the Secretary of Defense presents an Annual Report, as well. However, these individuals can be called upon at any time to testify before Congress, normally before individual committees such as the Appropriations or Armed Services Committees. These hearings

normally take place at one of the congressional office buildings. The committee staffers handle all of the logistical arrangements, such as room set-up, audio/visual aids, etc. The SAF/LL staff will coordinate these people's testimonies in conjunction with the military member's individual staff. The military member's staff should obtain copies of all the biographies of the committee members and staffers. The SAF/LL and most MAJCOM legislative liaison offices will have these resources available if they are not on file on the Internet.

**Field Hearings.** Occasionally, Congress comes to you. In this case, the committee members and staffers will give you inputs on the logistical requirements, but you will do most of the work. If at all possible, try to visit the staffers in Washington, DC as early as you can in order to hold preliminary discussions. Try to get a copy of the staffers' field hearing and/or hearing management checklist to use in your organization. Take good notes of all meetings and phone conversations, write a memo for the record, and send copies to all those who were at the meeting. This makes the coordination much smoother.

Your higher headquarters all the way up the chain will probably want to get involved, and coordination with them will be an essential part of your checklist. But your primary office for coordination of this process will be the SAF/LL office assigned to work your case. They have the experience, and if you do get to Washington for a preliminary meeting with staffers, you should ensure they are included in all meetings.

You will need to produce and coordinate a detailed itinerary starting from the point the members leave their offices in Washington to the point where they return, including any side-trips they take in your local area. You also need to produce a depiction of the

room set-up and a menu if meals are involved, and ensure an area is available for a press conference. You should obtain the biographies of all the members of the congressional party. The SAF/LL and most MAJCOM legislative liaison offices will have these resources available if they are not on file on the Internet.

## **Testimony**

Testimony is the written or oral product given to congressional members and their staffs at the Capitol Hill or Field Hearings. Testimony usually involves the senior-level military commanders; however, occasionally other military members are called upon to testify. Some recent examples are Desert Storm veterans, female aviators, and nurses. The same preparation described below is required of anyone who testifies.

The first step is to analyze your audience. This may be the entire committee, some small portion of it, or perhaps just the chairman or ranking minority party member. Sometimes the individual most concerned with your issue is actually a committee staffer. Whoever the audience is, you should expect the press to be represented. Not too many of us actually get to be on C-SPAN, but there are often print media reporters there, and which ones will depend on the level of controversy expected.<sup>16</sup> If the testimony takes place at a field hearing, the audience will often include the local Representative, who will most likely want you to arrange for local media representation. Be sure to do this through your Public Affairs Office.<sup>17</sup>

The next step is to find copies of transcripts from all previous hearings on the same subject, or other reports the committee may have seen, articles written by the members on the subject, and other pertinent documents. These can be a big help in understanding what the committee members are specifically interested in, such as open issues from

previous hearings. You can often get help in finding pertinent documents from the committee staffers. The bottom line is to ensure your chain of command is fully aware of all issues and agendas!<sup>18</sup>

**Preparation of Written Statements.** Written statements, called witness statements, present the military member's views on a particular subject. These products must be cleared through SAF/LL in advance and submitted to the committee as provided for by the rules of that committee.<sup>19</sup> Your assigned SAF/LL liaison officer will tell you when the statement must be submitted and send you the appropriate forms to help you prepare the statement. The SAF/LL staff will need the statement submitted to them on a 3-1/2 inch computer disk. Be sure to coordinate software with your liaison officer before sending the disk. You will also have to coordinate with your liaison officer on the number of advance copies of the witness statement to be provided for the hearing panel.

The witness statement will be included in the hearing transcript as part of the official record. You should try to obtain from the staffers a list of pertinent questions that they want answered and include the answers in the witness statement; however, do not expect that all the Members will have read your statement prior to the hearing. They will still most likely ask questions on these topics during the hearing. You can also count on them asking some questions which are not on the list, so don't limit the witness statement to just the listed issues/questions. On the day of the hearing you will need to have a specified number of extra copies available in the back of the hearing room for the press, other witnesses, etc. Check with the committee staff to determine how many copies you will need.

**Preparation of Oral Testimony.** It is advisable to prepare a written script for oral testimony and then hold practice sessions, sometimes called “murder boards,” to simulate the hearing. The murder boards should be conducted by knowledgeable individuals who can then simulate the “grilling” of the witness by the congressional committee by asking questions. The following key points contain advice for preparing and delivering spoken testimony and visual aids:

- Always be truthful.
- Accurately represent the Air Force position.
- Take into consideration what other witnesses will tell the committee on the subject.
- Be logical, clear, and to the point.
- Directly address the questions you have identified as being at the heart of the hearing.
- Do not use jargon or acronyms.
- Do not use jokes.
- Conform to time limits.
- Make sure the person delivering the testimony has mastered it.
- Have someone take notes during the hearing in order to record any Questions for the Record (QFR).
- Do not use wiring diagrams.
- If you use charts and diagrams, make sure they are clear and can be reproduced in black and white.
- Present the testimony in the number of copies requested by the committee.<sup>20</sup>

### **After the Hearing**

After the hearing takes place, there is a review process in which the military organization reviews the hearing transcripts for accuracy and inserts additional information as directed. Also, any visual aids used during the hearing are inserted into the official record. The SAF/LL division heads this review process and prepares the inserts for the record based on inputs from the witness.<sup>21</sup> SAF/LL also gives SAF/PA copies of testimony for release to the media.<sup>22</sup> Hearing transcripts must be reviewed,

corrected, coordinated through the chain of command, and returned to SAF/LL within 10 calendar days of receipt.<sup>23</sup>

The best approach to the review process is to videotape or audiotape the hearing, if possible, and use the tape to correct the transcript. This enables you to make corrections when you are not sure exactly what was said but you know the transcript is wrong.<sup>24</sup> A tape also serves as good future reference material in case there are any more hearings on the subject, giving action officers and future witnesses a better record of the hearing than just reading the transcript. Ensure you obtain congressional staff approval in advance to tape any hearing. All corrections to the transcripts must be made in regular pencil, not red, so that the corrections show up when the document is copied.<sup>25</sup>

### **Reports To Congress**

The USAF submits about 100 reports to Congress per year. These are tasked to offices on the Air Staff by SAF/LL or SAF/FML. The Air Staff offices then task them out to units in the field. Deadlines for these reports must be met because often a congressional committee will restrict access to funds until a report is complete. In addition, the content of these reports is critical; once published, the report communicates official Air Force policy. Typically, there is an office at each MAJCOM which reviews report language and pertinent laws to ensure that the Air Force is following congressional direction. These reports are reviewed by Congress to ensure Air Force "compliance with congressional intent" and are often referred to in congressional oversight hearings. These reports are now on disks, and will be available on the Internet sometime in 1996.<sup>26</sup>

## Notes

<sup>1</sup>United States, Air Force Instruction 90-401, Para. 4.2.1, 18 Mar 1994, 2.

<sup>2</sup>United States, Air Force Instruction 90-401, Para. 4.2.2, 18 Mar 1994, 2.

<sup>3</sup>United States, Air Force Instruction 90-401, Para. 2.3, 18 Mar 1994, 2.

<sup>4</sup>United States, Air Force Instruction 90-401, Para. 4.2.1, 4.2.2, 2.3, 18 Mar 1994, 2.

<sup>5</sup>Department of the Air Force Office of Legislative Liaison. *Air Force Constituent Inquiries*. 104th Congress.

<sup>6</sup>United States. US Code. Title 5, Section 7102 and Title 10, Section 1034.

<sup>7</sup>Lt Col Beth Unklesbay, Chief, Inquiry Branch, Secretary of the Air Force Legislative Liaison Office. personal interview. 2 January 1996.

<sup>8</sup>United States, Air Force Policy Directive 90-4, Atch 1, A1.1.3, 22 Jul 93.

<sup>9</sup>United States, Air Force Instruction 90-401 and Assistant Secretary (FM/C)/Secretary of the Air Force Budget Enactment Instruction No. 2, *Witness Statements and Transcripts of Testimony for Appropriations and Budget Committees*, 22 Jan 1992.

<sup>10</sup>United States, Air Force Policy Directive 90-4, 22 Jul 1993., Atch 1, A1.1.3 and Lt Col Beth Unklesbay, Chief, Inquiry Branch, Secretary of the Air Force Legislative Liaison Office. Personal interview. 2 January. 1996.

<sup>11</sup>United States, Air Force Policy Directive 90-4, 22 Jul 1993, Para 1.3.

<sup>12</sup>United States, Air Force Instruction 90-401, Para. 1.8, 18 Mar 1994, 2.

<sup>13</sup>United States, Air Force Instruction 90-401, Para. 1.7, 18 Mar 1994, 2.

<sup>14</sup>Nancy Drury, Office of the Assistant Secretary of the Air Force, Financial Management and Comptroller (SAF/FML). personal interview. 27 December, 1995.

<sup>15</sup>James T. Currie, "Testifying on the Hill: A Guide to Survival" *Parameters*, (Winter 1992-93).

<sup>16</sup>James T. Currie, "Testifying on the Hill: A Guide to Survival" *Parameters*, (Winter 1992-93).

<sup>17</sup>Major Anne McGee, *Report from 23 April Hearing on Professional Military Education*, [H.A.S.C. No. 103-23], After Action report, Norfolk, Armed Forces Staff College, 1994.

<sup>18</sup>Major Anne McGee, *Report from 23 April Hearing on Professional Military Education*, [H.A.S.C. No. 103-23], After Action report, Norfolk, Armed Forces Staff College, 1994.

<sup>19</sup>United States, Department of Defense Directive 5400.4, Para D.1.b., 30 Jan 1978.

<sup>20</sup>James T. Currie, "Testifying on the Hill: A Guide to Survival" *Parameters*, (Winter 1992-93).

<sup>21</sup>United States, Air Force Instruction 90-401, Para. 3.4.6, 18 Mar 1994.

<sup>22</sup>United States, Air Force Instruction 90-401, Para. 3.4.10, 18 Mar 1994.

<sup>23</sup>United States, Air Force Policy Directive 90-4, Atch 1, A1.1.1 and 1.1.2, 22 Jul 1993.

<sup>24</sup>Major Anne McGee, *Report from 23 April Hearing on Professional Military Education*, [H.A.S.C. No. 103-23], After Action report, Norfolk, Armed Forces Staff College, 1994.

<sup>25</sup>United States, Department of Defense Directive 5200.1-R, reference (d), and Department of Defense Directive 5400.7, reference (e), 30 Jan 1978.

<sup>26</sup>Nancy Drury, Office of the Assistant Secretary of the Air Force, Financial Management and Comptroller (SAF/FML). personal interview. 27 December, 1995.

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